

**Minutes of the Carlisle Board of Health
March 19, 2013**

Present: Board members Jeff Brem (Chairman), Catherine Galligan, Vallabh Sarma, and Bill Risso; absent Donna Margolies; also present Linda Fantasia (Agent), Rob Frado (TCG) and Karina Coombs (Mosquito).

The meeting was called to order by the Chairman at 7:00 pm. at Carlisle Town Hall.

MINUTES – It was moved (Galligan) and seconded (Sarma) to approve the minutes of 2/12/13 as amended. Motion passed 3-0-1 (Risso did not attend meeting).

ADMINISTRATIVE REPORTS

Foss Farm Irrigation Well – Jack O’Connor, garden manager, wants to install a single wash well in the middle row of garden plots. The Board agreed it did not have a problem with the well based on a discussion last year with Tony Mariano of the Water Quality Subcommittee who said pesticides used on a nearby agricultural would not pose a threat to the well. The well is only intended for gardening not drinking. Fantasia will issue the permit.

Local Public Health Institute – Fantasia has been asked to peer review an onsite waste water treatment curriculum that is being offered through the Institute. Since this is pro bono work, the Board asked if some type of compensation such as free tuition or auditing a class could be offered.

BILLS – Payroll, well inspector and engineering.

It was moved (Galligan) and seconded (Risso) to approve \$669.57 (\$98.61 from T5 Administrative Grant) for TCG for February. Motion passed 4-0-0. It was moved (Galligan) and seconded (Sarma) to approve \$300 for Ralph Metivier for well and pump inspections. Motion passed 4-0-0. It was moved (Galligan) and seconded (Risso) to approve salary and wages for Fantasia and Lyman. Motion passed 4-0-0.

FEES – As part of the Board’s ongoing review, Galligan suggested reviewing food establishment fees, last changed in 2006.

One time food service vendor (excluding non-profit): current fee is \$10. Estimated cost is \$54. Galligan proposed an increase to \$20. Brem said this is a 100% increase. Risso wanted a different fee for residents. A discussion followed and Galligan moved to increase the fee to \$30. **It was moved (Galligan) and seconded (Risso) to increase the fee for a One Time Commercial Food Vendor from \$10 to \$30. Motion passed 3-1(Brem)-0.**

Residential Kitchen: current fee is \$10. Estimated cost is up to \$140. The Permit requires an inspection by the Board’s consultant (\$45/hr); the remainder in administrative expense. Galligan recommended \$50. Sarma disagreed saying it was too high given the small volume made in a home kitchen. Galligan then asked how the difference would be paid. The Board agreed that this should be a town subsidized cost due to the “mom and pop” nature of the business. Fantasia could do the annual inspection to reduce the cost. **It was moved (Risso) and seconded (Sarma) to increase the Residential Kitchen fee from \$10 to \$30. Motion passed 3-1(Brem)-0.**

Commercial Kitchen in a Residence: current fee is \$50. Estimated cost is \$140. Galligan recommended \$100. Brem wanted to stay at \$50. **It was moved (Galligan) and seconded (Sarma) to increase the fee for a Commercial Kitchen in a residence from \$50 to \$100. Motion passed 3-1(Brem)-0.**

Seasonal Permit (Ice Cream Stand): current fee is \$100 for up to six months. Estimated cost is \$162. Brem noted that Kimballs had been in operation for a long time, paying a fee for each year. Galligan pointed out that there was a loophole in the current fee structure which did not cover unanticipated inspections. A number of re-inspections by the Board’s consultant were required at Kimball’s when the soft serve failed bacterial counts. The Board agreed that the application fee is intended only for usual and customary services. Problems or complaints that require additional services should be billed. Brem said the additional expense should be incurred as a fine for a violation. Galligan disagreed noting that an inspection following a complaint might not find a violation. The town would still incur the

cost but without recourse to collect. The Board reviewed re-inspection fees of other towns. The Board would like input from the Finance Committee on how it should meet cost overruns. If the burden is not placed on the operator it is placed on the taxpayers. Sarma suggested that if no violation is found, the town should pay. If a violation is found, the operator should incur the cost. Galligan recommended increasing the fee to \$125. Sarma felt the fees should be closer to estimated costs (\$162). **It was moved (Sarma) and seconded (Risso) to increase the fee for seasonal (up to six months) food establishments from \$100 to \$150. Motion passed 4-0-0.**

Annual Food Service Permit: current fee is \$200. Estimated cost is \$235. The recommendation was for \$250. Brem did not want the town charging more than the cost. Brem felt the 17% increase was appropriate. **It was moved (Galligan) and seconded (Sarma) to increase the fee for an Annual Food Establishment Permit from \$200 to \$235. Motion passed 4-0-0.**

Farmers Market: no fee. Estimated cost is \$108. The consultant charges \$45/hr. There is a lot of office time spent on approving various vendors and venues. Brem suggested \$5. Risso suggested \$10 per market. This is an endeavor that the town wants to support. It encourages healthy eating habits with fresh, locally grown produce. Galligan said she too was sympathetic but asked how the cost would be paid. The Board's operating account does not have the money. The Board agreed that if there is a deficit there would be reason to request additional funding from the Finance Committee. Part of the Finance Committee's budget planning is to consider town priorities.

The Board discussed adding a new fee for re-inspections. The inspector's cost is \$45/hr plus administrative costs (\$80 per inspection). Brem did not agree with requiring a fee for the re-inspection. Fees pay for permits. If an operation is not in compliance with the regulation it is an enforcement issue. They should be issued a fine not a fee. Risso preferred a fee. A fine is a penalty. Problems are not always the result of non-compliance. Lack of training and poor knowledge can sometimes be the cause. Education rather than enforcement can play an important role in reducing the number of future problems. **It was moved (Risso) and seconded (Galligan) to require a re-inspection fee of \$82 for any inspection beyond the usual and customary inspections required for the permit. Motion passed 4-0-0.**

Design Review – no fee currently. This fee would cover the review of new kitchens and modifications to existing kitchens for compliance with the Food Code. This happened for each of the three local churches and Ferns. A full review of plans can take up to three hours. It involves building and operational plans. Galligan estimated the cost to be \$182. **It was moved (Galligan) and seconded (Risso) to charge \$182 for up to three hours of kitchen design review. Discussion: Sarma suggested \$200 to \$250 in case it requires additional time. Galligan agreed to amend her motion to \$200. Motion passed 3-1(Brem)-0.**

The Board will add a statement to the Fee Schedule to make it clear that fees cover just the usual and customary inspections necessary to check for compliance with state and local regulations.

PH – Proposed Amendments to the Town of Carlisle Sewage Disposal Regulations.

It was moved (Risso) and seconded (Galligan) to open the public hearing. Motion passed 4-0-0.

Section 15.020 Disposal System Construction Permit – Fees. The Board proposes to delete "Plans may be resubmitted after revision one time with additional fee". A fee will now be required for revised plans requiring an engineering review. The Board received a letter from Stamski & McNary in opposition to this fee claiming that it will be difficult to determine which revisions warrant an engineering review. Fantasia and Frado did not think this would be a problem. The technical review will point out engineering deficiencies. Minor plan deficiencies such as plan notes or general information will be checked by the Board's Health Agent. Fantasia explained that a recent revised plan included 12 items most of which were minor deficiencies. Frado was able to determine from the cover letter that at least two of the items required engineering calculations. Brem said many towns do not accept plans that have minor deficiencies. They use a check list to avoid deficient filings. Fantasia and Frado would like to develop a checklist form filed with the application. This would ensure that incomplete plans are not accepted. Fantasia and Frado will develop a check list to be filed with the application.

It was moved (Galligan) and seconded (Risso) to amend 15.020 Fees by deleting the sentence “Plans may be resubmitted after revision one time without additional fee”. A fee will now be required for any revised plan that requires an engineering review. Motion passed 4-0-0.

The Board then discussed how many inspections should be required during an installation. Frado explained how the fill is sometimes checked during the installation inspection. Most material comes from the same source. Frado will sometimes allow installers who have worked in town for a long time to place the fill before his approval. They are aware that if there are problems, the fill will need to be removed. With new installers, Frado would prefer to approve the fill before placement. It is a discretionary call. A sieve analysis is required but Title 5 no longer requires a bucket test. Placing the fill for inspection at the time of the installation can reduce the number of required inspections from four to three. Brem took issue that the current regulation does not provide for this kind of discretion. The Board had a lengthy discussion on whether to eliminate the fill inspection and allow the installer to proceed at his own risk. If it is at the discretion of the Board's consultant it could put the town at risk if there is a later problem. Brem felt installers were well aware of the risk and cost of placing unsatisfactory fill. The Board is proposing to charge \$300 for up to two additional inspections beyond the required.

Risso said he is uncomfortable with reducing the number of inspections. Galligan favored more inspections but was willing to consider allowing the installer to make his own decision about the fill. The Board would require that he sign off on a specific statement such as “I decline to pay for a fill inspection”. Brem said it would be important to make the consequences clear to installers when they sign out the plan. Risso was still concerned about reducing the number of required inspection from four to three – a 25% reduction. Carlisle is unique in its dependence upon groundwater for private wells. Much of what is regulated locally addresses the need to protect the groundwater. Frado was opposed to dropping the final grade inspection. Even though there is an engineered as-built, there can still be problems particularly with systems involving steep slopes. Frado has sometimes noticed wash outs during a final grade inspection after the as-built has been submitted. Even if a property has an Order of Conditions for the work it may not involve the slopes of the breakout. Carlisle has many mounded systems so slope stabilization is important. While on the subject of as-built plans, Brem suggested requiring a statement of exceptions. The inspector can then decide whether the items are within an acceptable tolerance or need to be corrected. Brem said part of the Board's task in looking at its fees and regulations is improved efficiency for the applicant and the town. He recommended deleting #2 from 15.021. The proposed operational changes - calling out exceptions on the plan, requiring a checklist at the time of filing and an installer's declination of a fill inspection - should result in an overall improvement to the process without losing the protections intended. He suggested trying it and then re-evaluating.

It was moved (Galligan) and seconded (Sarma) to delete item # 2 in section 15.021 and reduce the required number of inspections from four phases to three and adding the words “fill and system components will be inspected in accordance with Title 5 requirements, local regulations and conditions of approval.” The final paragraph will be revised as follows: “The Board of Health will not waive any required inspections but may at the request of its inspector provide for additional inspections.”

Discussion: The Board noted that inspection time will be based on standard practice of up to one hour. Risso expressed his concerns that reducing the number of inspections will result in substandard systems. There may be unintended consequences as a result of a more efficient inspection process. Galligan was concerned about the town's legal exposure if it establishes a less than competent inspection process. Frado said he would prefer to stay with the four required inspections. Installers that have worked in town for many years have developed a relationship with Frado. They know what he expects and he is able to count on the quality of their work. This often results in only three needed inspections. On the other hand, new installers frequently require more time in the field to accomplish satisfactory results. The Board agreed to try the reduced inspection schedule (no fill inspection) for a year. Brem did not like the idea of making the number of inspections discretionary. It needs to be three or four. Doing otherwise puts Frado in a difficult position. Risso said he would prefer increasing the application fee by an additional \$200 and staying with four inspections. Disapproving the fill after it has been placed has the potential for expensive legal claims, possibly involving the town. Risso does not think it is worth the risk. Risso doubted that an installer would pay for an extra inspection even if the cost is passed onto the homeowner. Making it an option does not really benefit the homeowner. Brem said he would like to test out the three inspections with the option of paying \$300 for up to two more. **Vote: Yes -3; No – 1(Risso) – Abstain – 0. Motion passed.**

15.024 Violations - The Board proposed to delete sections a), b), and c). In the first sentence “may” will be changed to “shall”. A new sentence will be added stating “The Board of Health may rescind any issued fine(s) at the Board’s discretion and following a public hearing.

It was moved (Risso) and seconded (Sarma) to amend “Section 15.024 Violations” by deleting items a), b) and c) and inserting the wording stated above. Motion passed 4-0-0.

Other Items: The Board then discussed other plan requirements. The Board agreed that since these changes were not noted in the legal notice, the hearing would be re-advertised. The Board proposes to amend the requirements of as-built plans to include a list of any exceptions from the approved plan, to be shown on the plan. Any deviations involving the cover over the system components must be noted on the final grade as-built plan. These will be voted at the next meeting. Frado asked the Board to address whether plastic manhole covers can be used and noted that plans no longer require a scaled profile. Frado feels this information is very helpful and should be required under plan specifications. Brem said he also wants to discuss requiring spring high groundwater testing for new construction. He asked to confer with Frado and the Board agreed. Risso asked to participate in the discussion which will be set up as a conference call. It was agreed to address these matters on 4/16/13.

Discussion Items

Engineering Costs – The Board wanted Frado’s input on the time involved for field inspections and whether he charges door to door or from town hall to a site. Frado bills one-half hour per inspection unless there are extenuating problems. Fantasia said the half hour does not include additional administrative/travel time involved. The Board based its cost projections on one hour/inspection. Frado said he charges from his “office” which is in his home as administrative time so it does not show as a specific property. The Board felt this was a unique situation. Frado said this has been the accepted practice under his contract. No changes will be made to the current policy.

Grant Projects - Galligan reported that the Board has received a \$6K wellness grant to work on a policy promoting tobacco free senior housing. The Board has also agreed to host a Population Health Clerkship with U Mass. Medical School in the fall. The students will research fire related injuries and deaths in seniors using long term oxygen therapy. The Board has also applied for a \$500 DPH mini-grant to work on teen worker safety. The Lyme Disease talk and video on how to do a tick check are moving forward. The talk will be held on 4/24/13 and feature Dr. Sam Telford of Tufts University. Costs for the project are all grant funded.

Rabies Clinic - 29 vaccinations were administered. The Board was able to use the new laptop funded through a Region 4A emergency preparedness grant. Dr. Tiffany Rule of Countryside Veterinary Hospital volunteered her time and Countryside also paid for a technician. The clinic was advertised on the state website and was open to other communities.

Fees for New Construction – Fantasia spoke with DEP regional representative Claire Golden to see if a separate fee could be charged for new construction septic installations. Golden said fees are not regulated by the state nor is there a policy. It is up to the local approving authority.

There was no further business. Meeting voted to adjourn at 9:50 pm.

Respectfully submitted,

Linda M. Fantasia,
Recorder